

59709/16

EASTERN

BRUNEI

59709/16

1948

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CLOSED
UNTIL

1999

Marriage Enactment.

no 8 of 1948.

C.O. 943/1/8

Previous

Subsequent

H 531

10/11

1) Library Legal

12/11

2) Mr Ashton

15/11

Mr. McPetrie

20/11

Mr Ashton

25/11

1) 1431

29/11

2) Mr. Ashton

17/12

H 531

PUT BY

30/5

Mr Ashton

31/5

1) Legal lib.

1/6

2) Mr. McPetrie

2/7

Mr. Ashton

4/7

H 531

5/8

Legal library

6/8.

H. 531

PUT BY

FILE A

1948

59709/
16

1998
KEEP

C.I

2

1 Brunei SAR 328

29.10.48.

The enactment follows
very closely the Sarawak
Church: Level Marriage Law,
copy of which is attached
Dec 1402. $\frac{12}{11}$ 48

Returned to
H.M. 30/11

Mr. McPetrie.

Any legal observations, please?

H.M. 15/11

Mr. Ashlton

To obviate the necessity of a detailed examination in this office of all colonial legislation, every colonial enactment is required to be accompanied by a legal report drawn up in accordance with the provisions of Colonial Regulation 153(2). The reason for this is fully explained in a circular despatch of 8 DEC. 1934.

Colonial Regulation 153 does not apply to Brunei enactments and since H.M. has no power to disallow Brunei legislation it has not hitherto been the practice to submit legal reports with Brunei enactments. At the same time we do, under treaty arrangements, have a power of advice in Brunei which

could be exercised which ~~could~~ in respect of any provision of Brunei legislation which seemed to us objectionable. From this it follows that Brunei enactments require the same scrutiny in this office as is given to ordinary colonial enactments and for this purpose I think that the High Commissioner should be asked to submit with each Brunei enactment the same sort of report as is required by Colonial Regulation ~~155~~ 153(2) and he had better start by letting us have such a report on Enactment No. 8 of 1948 which is a fairly long and important bit of legislation.

I attach a photostat copy of the circular despatch of 8 Dec. 1929 which can be sent to the High Commissioner in case he has none available.

JCH:Petrie
20/11.

Action proceeding on 59706/48.

Partly. HGP/shm
17/12.

OK

2. Brunei - Desch. 25 — 17/12/48.
(Dttan 59706/48)

OK

✓

3 Brunel - Sav 37 - 10/5/49

Mr. McKelvie.

4

Ref. your min. of 20/11/48, a
legal report is now behind (3).

KG/shvan
31/5.

This is in order.

Labraham 2/7
for Mr McKelvie away.

AS31.

Please acknowledge and put by.

KG/shvan
4/7

4 Brunel Sav 57 - 5/8/49
(D/CN 59709/22/49)

Legal library
note

Library legal do not require to note the
acknowledgement of the Legal Report, only of
the enactment which has apparently not yet
been done. Received 4/4. 6/8.

59709/22/49. *Ofon*

5 4

Saving.

HIGH COMMISSIONER FOR

BRUNEI.

From the Secretary of State for the Colonies.

To the Officer Administering the Government of

Date *5th August 1949*

No. *57* Saving.

(3) Your Saving 37 of 10th May 1949.

I acknowledge receipt of the Legal Reports on Brunei Enactments enclosed with your savingram.

Copies of the Oil Mining (Amendment) Enactment, No. 12 of 1948, do not appear to have been received, and I shall be grateful if 10 printed copies of this enactment may be forwarded.

SEGER.

PA/GSK

Ref: 5/HCO/110

SAVING.

From the High Commissioner for Brunei.
To the Secretary of State for the Colonies.

Date.....10 May, 1949.....

No.37.....Saving.



----- In accordance with Colonial Regulation
153, I enclose Legal Reports on the following
Brunei Enactments:-

8 of 1948 by the Attorney-General,
North Borneo.

9 and 10 of 1948 by the British
Resident, Brunei.

11 and 12 of 1948 and 1 of 1949 by
the Attorney-General, Sarawak.

59709/16

59709/17

18

19

20

7.10/5/49

7

STATE OF BRUNEI

THE MARRIAGE ENACTMENT, 1948

Legal Report

This is an Enactment to provide for the solemnization and registration of Church and Civil Marriages within the State.

2. In the past, owing to the small number of Europeans and Christians resident in the State, there was no call for such legislation. The position has now changed owing to the very large increase in the staff of the British Malayan Petroleum Company Ltd. employed since the war on the oilfields in the State and an increasing demand for facilities to enable Church and Civil Marriages to be solemnized and registered, culminating in a request from the Bishop of Labuan and Sarawak to this effect. These oilfields are part of the general operations of the Shell Group in Borneo and closely associated with the neighbouring installations in Sarawak. It was therefore represented that similar facilities should be available.

3. For this reason it was felt that although the Sarawak Ordinance was not the latest model, there were peculiar circumstances which made it advisable that the law in both territories should be the same (*mutatis mutandis*). It was also appreciated by the Resident that the administration of Sarawak and Brunei was to become more closely associated and further, there being no printing facilities in Brunei, it was desirable to use the

Sarawak forms which, with very minor amendments, were obtainable from the Government Printer there.

Rev.Ed.
Vol.III p.3.

4. For this reason the present Enactment follows almost exactly the Church and Civil Marriages Ordinance of Sarawak (Cap.72) with certain amendments, some of which were proposed by the Attorney-General of Sarawak who approved the final draft.

5. Attached is a Comparative Table showing any differences.

Approved
A.H.
N.H. Gomes
28th Feb 1949

THE MARRIAGE ENACTMENT, 1948

Comparative Table

All references in this Table are to the Church and Civil Marriages Ordinance of Sarawak (Cap.72), and references cover all differences other than those of purely local references, e.g. -

"Enactment" for "Ordinance",
 "State" for "Colony",
 "Resident" for "Chief Secretary", etc.

No mention has been made of instances where notices, etc. in Sarawak are required to be published in the Government Gazette, there being no Gazette in Brunei. In appropriate instances, the relative action of public notification by the Resident has been inserted.

Sections 7(2) and 35 refer to local courts.

In Sarawak Ordinance, there are references in sections 4(3) and 34 to the 1st day of January, 1931 - the date on which Cap.72 came into operation - and have therefore been replaced ~~by~~ references to the date of coming into operation of the Brunei Enactment.

Reference is only made to those sections in which material differences occur.

Section	Marginal Note	Remarks
1	Short title and Application.	(1) Delete "Church and Civil" (2) "Budhist" added to usages as recognised. (3) Last 35 words added, in view of doubts expressed by Attorney-General Sarawak as to the operation of this section with section 4(2)

Section	Marginal Note	Remarks
		in respect, inter alia, of Dyaks who by law of domicile are monogamous even if not christian by religion.
2	Interpretation.	Definition of "minor" re-arranged.
4	Modes of solemniz- ing marriages.	
(1)		"In accordance with section 22 of this Enactment" substituted for "Marriage Registrar". In this instance and also sec.5(2) it was deemed advisable to refer specifically to the power under sec.22 rather than the general reference to "a registrar".
5	Religious and Civil Marriages.	
(1)		Reference to Methodist Church deleted and last 23 words added. The Methodist Church is not at present represented in Brunei though two other recognised missions have spheres of influence.
8	Marriage Registrars.	Re-draft to meet local conditions.
10	Publication of Banns, etc.	
(3)		The words "specific" and "for that marriage" added in line 2; the words "by the rules of that Church" added in line 5/6 and proviso added. These amendments inserted at the instance of the Attorney-General Sarawak in view of the contention by some priests that the licence could be general.

Section	Marginal Note	Remarks
32	Failure to keep register, etc.	Para.(b) of Sarawak Ordinance deleted; it being considered that this was meaningless and covered by Sarawak (d) now Brunei (c).
37 (1)	Searches in registers.	The words "authorised to solemnize marriages and" in line 4 added to remove inconsistency with section 39.

[Handwritten signatures and initials]
AAS
27/4/79

Copy for 59709/16/48

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D/ton.

59706/48

BRUNEI

NO. 25

THE COLONIAL OFFICE,

THE CHURCH HOUSE,

GREAT SMITH STREET,

S.W.1.

17 December, 1948

Sir,

I have the honour to address you with reference to the furnishing of explanatory reports with enactments of the state of Brunei.

2. In the case of Colonial legislation, as you are aware, Colonial Regulation 153 requires that every Colonial enactment should be accompanied by a legal report drawn up in accordance with the provisions prescribed therein. The purpose of the regulation is briefly to obviate the unnecessary duplication in this office of work involved in the detailed examination of Colonial legislation, and is more fully discussed and explained in Mr. MacDonald's despatch of the 8th December, 1939, of which a copy is enclosed for ease of reference.

3. It has not hitherto been the practice to submit legal reports of this kind with Brunei Enactments, the reasons no doubt being that Colonial Regulation 153 does not apply to Brunei enactments and His Majesty has no power to disallow Brunei legislation. There is however, under the Supplementary Agreement of 1905 and 1906 a power of advice in Brunei which could of course be exercised in respect of any provision of Brunei legislation should the necessity arise. It is therefore necessary for Brunei enactments to be scrutinised in this office, and it would greatly facilitate this scrutiny if Brunei enactments could be accompanied by a legal report of the kind required by Colonial Regulation 153.

4. I shall be glad if you will consider this matter, and, subject to any observations you may have, if arrangements can be made for the submission of legal reports on Brunei enactments when they are forwarded to me. It would be convenient, if this arrangement could be initiated in respect of Brunei Enactment No. 8 of 1948 which is a long and important

piece

AS/SPH.

Ref: 18/HCO/14.

SAVING.

From the High Commissioner for Brunei.
To the Secretary of State for the Colonies.

Date.....²⁹October, 1948.

No.³²⁸.....Saving.



I enclose 10 copies of Brunei

Enactments Nos. 8 and 9 of 1948.

159709/17/48.

Red

STATE OF BRUNEI

ENACTMENT NO. 8 OF 1948

An Enactment to provide for the solemnization and Registration of Church and Civil Marriages.

L. H. N. DAVIS, M.C.S.

British Resident,

Brunei.

3rd August, 1948.

IT IS HEREBY ENACTED BY His Highness the Sultan in Council as follows:—

1.—(1) This Enactment may be cited as the Marriage Enactment, 1948.

Short title
and application.

(2) This Enactment shall not apply to marriages contracted according to the usages of Mohammedans, Hindus, Budhists, Dayaks and other persons governed by their own laws or customs of marriage which are recognised by Brunei law to be valid and effective if one of the parties to such marriage is a member of the race or religion according to whose usages the marriage is contracted.

2.—In this Enactment, unless there is something repugnant in the context or subject—

Interpretation.

“Marriage” means a marriage as understood by English law that is to say the voluntary union of life or until the marriage is dissolved by a Court of competent jurisdiction of one man with one woman to the exclusion of all others.

“Religious Marriage” means a marriage solemnized in any Church, Chapel or any other authorised building in accordance with the rites and ceremonies of any religious denomination.

“Civil Marriage” means a marriage solemnized in the office of a Marriage Registrar in accordance with the provisions in that behalf hereinafter contained.

“Marriage Registrar” means a person appointed under the provisions of this Enactment for the purpose of conducting civil marriages.

“Senior Marriage Registrar” means the Marriage Registrar for the State.

“Anglican” means and applies to the Church in Brunei in communion with the Church of England as established by the law of England.

“Church of Scotland” means the Church of Scotland as established by law.

“Church of Rome” and “Roman Catholic” mean and apply to the Church under the spiritual jurisdiction of the Pope of Rome.

“Christian” means a person professing the Christian religion.

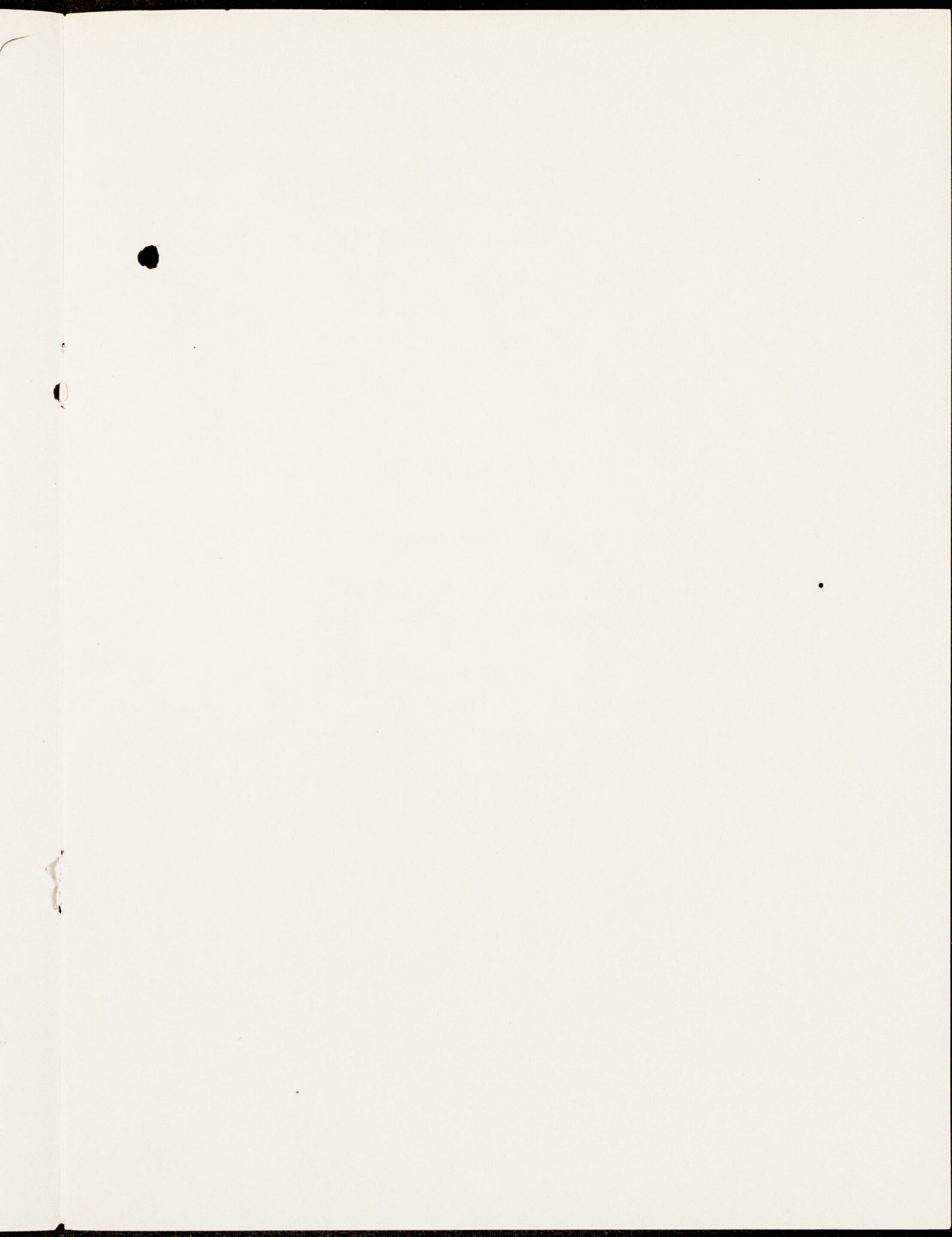
“Minor” means a person who not being a widow or widower is under the age of 21 years in the case of a European and under 18 years in any other case.

“Minister of Religion” means any priest of the Anglican Church, any minister of the Church of Scotland or Presbyterian Church of England, any priest of the Church of Rome and or any other minister or ecclesiastical or religious official of any other denomination or sect who is authorised under this Enactment to solemnize marriages.

Capacity to
marry.

3.—(1) No two persons shall be capable of contracting a valid marriage unless the following conditions are fulfilled:—

- (a) That both parties to the intended marriage have reached the age of 14 years;
- (b) That the parties to the intended marriage are not related to each other within the degrees of kindred set out in the First Schedule to this Enactment;
- (c) That if domiciled elsewhere than in the State of Brunei the parties to the intended marriage are not related to each other within a degree of kindred prohibited by the law of the country of their domicile;
- (d) That neither party to the intended marriage is bound by a valid subsisting marriage to a third person;
- (e) That at the time of the marriage neither party is a lunatic, an idiot or a person whose mental condition makes him or her incapable of understanding the nature of the marriage contract;



(3)

(f) That the parties to the intended marriage freely consent to marry each other:

Provided that absence of consent shall not be inferred merely from the fact that one party was induced by fraud to marry the other.

(2) A marriage shall be void unless all the conditions set out in sub-section (1) of this section are fulfilled.

4.—(1) Every marriage under this Enactment shall be solemnized either by a Minister of Religion or in accordance with section 22 of this Enactment.

Modes of solemnizing marriages.

(2) Subject to the provisions of section 35, every marriage, not being a marriage to which by section 1 (2), this Enactment does not apply, either or both of the parties to which is monogamous by religion or by the law of his domicile, if solemnized otherwise than in accordance with sub-section (1) of this section shall be void.

(3) Subject to the provision of sections 34 and 35 every marriage solemnized before the coming into operation of this Enactment not being a marriage to which by section 1 (2), this Enactment does not apply, either or both of the parties to which is monogamous by religion or by the law of his domicile, shall be and shall be deemed always to have been void, unless it was solemnized by a minister of religion or civil authority under the laws in that behalf then in force.

5.—(1) A marriage by a minister of religion shall be solemnized according to the rules, rites and ceremonies of the Anglican Church, the Church of Rome, the Church of Scotland, the Presbyterian Church of England by a duly authorised priest or minister of one of those Churches or according to the rules rites and ceremonies of the denomination of any minister of religion licensed under section 6 of this Enactment.

Religious and civil marriages.

(2) A marriage before a Registrar shall be solemnized in accordance with section 22 of this Enactment.

6.—The Resident may grant licences to ministers of religion of denominations other than those herein mentioned in section 5 (1) to solemnize marriages according to the rules, rites and ceremonies of their respective denominations and may revoke or cancel such licences.

Power to license ministers of religion.

7.—(1) If any party to an intended marriage is a minor as defined by this Enactment the marriage shall not be solemnized unless such minor first obtains—

Consent requisite in the case of a minor.

- (a) the consent of the father of such minor, or, if the father be dead, or if his consent is not reasonably obtainable,
- (b) the consent of the guardian of such minor, or, failing such guardian,
- (c) the consent of the mother (if living) of such minor.

(2) If the person whose consent is required is of unsound mind, or withholds the requisite consent, the Court of the Resident, if satisfied that the consent is unreasonably withheld, may issue an order of consent, in lieu of the consent required by sub-section (1).

(3) Where there is no one living who is capable of giving a valid consent, the marriage may in the discretion of the minister or Registrar proceed without such consent.

(4) No marriage solemnized without the consent or order of the Court as required by subsections (1) or (2) shall be void by reason only of the absence of such consent or order, but the minister or registrar solemnizing the marriage shall be liable to the penalties prescribed in section 30.

Marriage
Registrars.

8.—(1) The Resident shall be the Senior Marriage Registrar for the State for the purposes of this Enactment.

(2) The Assistant Resident and the Secretary to Resident shall, until otherwise ordered by notification, be the Marriage Registrars for the Districts of Belait and Tutong and the Districts of Brunei and Temburong respectively.

(3) The Resident may appoint a Marriage Registrar for any place, area or District in addition to those appointed under this section.

RELIGIOUS MARRIAGES

Notice of
marriage to
be given.

9.—One of the parties to every intended religious marriage shall give notice thereof to the minister of religion before whom it is intended that the marriage shall be solemnized or to some person acting on his behalf. Such notice shall be in the form prescribed in the Second Schedule and shall contain—

- (a) The full name and nationality of each of the parties to the intended marriage;
- (b) The profession and status or condition of each party;

- (c) The dwelling place of each party;
- (d) The time during which each party has dwelt there;
- (e) The age of each party to the intended marriage;
- (f) The church, chapel or building in which the marriage is to be solemnized;
- (g) The date on which notice is given.

10.—(1) The marriage of which notice is given under section 9 shall not be solemnized until either—

Publication
of banns or
exhibition of
notice.

- (a) the banns of the marriage have been published on at least three occasions separated by intervals of not less than seven days; or
- (b) the notice has been exhibited for at least fourteen days in some conspicuous part of the church, chapel or building in which it is intended to solemnize the marriage, or in the office of the Marriage Registrar of the District.

(2) If neither of the parties to the intended marriage has resided in the District in which the notice under section 9 is given for at least fourteen days next before the giving of the notice, the minister of religion shall not solemnize the marriage until the banns have been duly published or the notice duly exhibited in the District in which one of the parties resides.

(3) Where a marriage is solemnized by a priest of the Anglican Church under a specific licence for that marriage from the Bishop of Labuan and Sarawak or his Commissary or Surrogate or by a Priest of the Church of Rome under licence from his ecclesiastical superior who is duly authorised by the Rules of that Church to grant such licences or by any minister of religion under licence granted by the Senior Marriage Registrar of the Division, it shall not be necessary to publish the banns or exhibit the notice as required by sub-section (1) of this section;

Provided that a licence granted under this sub-section shall apply only in respect of the particular marriage for which it is granted.

11.—(1) No minister of religion shall solemnize any marriage until—

Declaration
before
marriage.

- (a) one of the parties has made either verbally or in writing a solemn declaration before him that he or she believes that there is no impediment of kindred or affinity or other legal hindrance to the said marriage, and further, if either party to the intended marriage is a minor, that the consent required under section 7 has been duly obtained; and
- (b) he is satisfied that the provisions of section 10 have been complied with.

(2) A minister of religion may solemnize any marriage on the certificate of another minister of religion of the same denomination, or of a Marriage Registrar, that the respective provisions of section 10 (1) have been complied with. Such certificate shall be in the form prescribed in the Third Schedule or to the like effect.

Protesting a marriage.

12.—Any person whose consent is required under section 7 to a marriage or any person who is aware of any just impediment to the marriage may, before the solemnization of the marriage, give notice of his objection verbally or in writing and thereupon the marriage shall not be solemnized until the Minister of religion has inquired into the matter and is satisfied that the marriage may lawfully proceed.

Marriage to be solemnized within three months.

13.—(1) A marriage shall be solemnized within three calendar months after the date of the due publication of the banns or the due exhibition of the notice as required by section 10 (1).

(2) A marriage solemnized after the expiration of the three months required by this section shall not for that reason only be invalid.

Registration of religious marriages.

14.—All religious marriages under this Enactment shall be registered in the manner following:—

(i) Every minister of religion shall enter in a register the particulars of every marriage solemnized by him in accordance with the form prescribed in the Fourth Schedule. Such entry shall be made immediately after the solemnization of the marriage and shall be signed and certified by the officiating minister and also by both the parties to the marriage and by at least two witnesses to the marriage ceremony.

(ii) A copy of each entry in the register duly signed and certified by the officiating minister of religion shall within one month from the date of solemnization of the marriage be forwarded to the marriage Registrar for the District in which the marriage was solemnized.

(7)

(iii) The marriage Registrar shall cause such certified copy to be filed, and shall make an entry recording the registration in a Marriage Register Book to be kept by him for the purpose and shall sign and date such entry.

(iv) Entries made in the Marriage Registers under subsections (i) and (ii) of this section shall be made in order from the beginning to the end of the Register and shall be numbered consecutively.

CIVIL MARRIAGES

15.—One of the parties to every intended civil marriage shall give notice to the marriage Registrar before whom it is intended that the marriage shall be solemnized or to some person acting on his behalf. Such notice shall be in the form prescribed in the Second Schedule and shall contain—

Notice of marriage to be given.

- (a) the full name and nationality of each of the parties to the intended marriage;
- (b) the profession and status or condition of each party;
- (c) the dwelling place of each party;
- (d) the time during which each party has dwelt there;
- (e) the age of each party to the intended marriage;
- (f) the place at which the marriage is intended to be solemnized;
- (g) the date on which notice is given.

16.—(1) The Marriage Registrar receiving the notice under section 15 shall cause a copy thereof to be exhibited in some conspicuous position in his office for at least fourteen days.

Copy to be exhibited in Registrar's office.

(2) If neither of the parties to the intended marriage has resided in the District in which the notice under section 15 is given for at least fourteen days next before the giving of the notice, the Marriage Registrar shall not solemnize the marriage until the notice has been duly exhibited in the office of the Marriage Registrar of the District in which one of the parties resides.

17.—The Marriage Registrar shall file all such notices in a book, to be called the Marriage Notice Book, which shall be open to inspection by all persons without fee during the usual office hours of the Registrar.

Marriage Notice Book.

Declaration
before
marriage.

18.—(1) No Marriage Registrar shall solemnize any marriage until—

- (a) one of the parties has made a solemn declaration before him in the form prescribed by section 11 (1); and
- (b) until he is satisfied that the provisions of section 16 have been complied with.

(2) The Marriage Registrar solemnizing a marriage may accept the certificate of another Marriage Registrar that the provisions of section 16 (2) have been complied with. Such certificate shall be in the form prescribed in the Third Schedule or to the like effect.

Protesting a
marriage.

19.—Any person whose consent is required under section 7 to a marriage or any person who is aware of any impediment to the marriage may, before the solemnization of the marriage, give notice of his objection verbally or in writing and thereupon the marriage shall not be solemnized nor shall a certificate be given under section 18 (2) until the Marriage Registrar has inquired into the matter and is satisfied that the marriage may lawfully proceed.

Marriage to
be solemnized
within three
months.

20.—(1) A marriage shall be solemnized within three calendar months after the date of the due exhibition of the notice as required by section 16.

(2) A marriage solemnized after the expiration of the three months required by this section shall not for that reason only be invalid.

Special licence
by Registrar.

21.—On payment of the prescribed fee the Senior Marriage Registrar on receiving the notice under section 15 and the declaration under section 18 may by special licence under his hand in the form prescribed in the Sixth Schedule himself solemnize or may authorise a minister of religion or any Marriage Registrar to solemnize a marriage, notwithstanding that the notice has not been exhibited as required by section 16.

Ceremony
before
Registrar.

22.—(1) The parties to the intended marriage shall attend before the Marriage Registrar and in the presence of two credible witnesses besides the Marriage Registrar the following ceremony shall take place in a language understood by the parties:—

- (a) Each party shall declare as follows:—
 of any impediment why I, A. B., may not marry
 “I solemnly and sincerely declare that I do not know
 C. D.”

(9)

- (b) Each of the parties shall then say to the other:—
 “I call upon these persons here present to witness
 that I, A. B., take you, C. D. to be my lawful
 wedded wife (or husband).”
- (c) The Registrar shall then say to the parties:—
 “I declare that you, A. B., and you, C. D., are man
 and wife together.”

(2) The forms prescribed in the Seventh Schedule may be used for the purposes of this section.

23.—(1) On payment of the prescribed fee the Marriage Registrar shall register the marriage in the presence of the parties and the witnesses by entering the same in the Marriage Register Book in the form prescribed in the Fifth Schedule.

Registration
of Marriage.

(2) The entry shall then be signed by the Marriage Registrar and also by the parties to the marriage and by the two witnesses thereto.

24.—Entries made in the Marriage Register under section 23 shall be made in order from the beginning to the end of the Register and shall be numbered consecutively.

Entries in
Register.

25.—(1) If it appears to a Marriage Registrar that the parties to an intended marriage, not being Christians, are, though of sane mind, incapable by reason of their antecedents, mentality, or education of fully understanding and fulfilling the duties and obligations of a marriage as defined by this Enactment, he may in his discretion refuse to accept the notice of marriage required by section 15 or may refuse to solemnize the marriage until he is satisfied that it is expedient in the interests of the parties to accept the notice or to solemnize the marriage.

Registrar may
refuse to
marry in
certain
circumstances.

(2) In exercising his discretion under this section the Registrar shall consider whether the parties are able to marry each other under a custom more suited to their mentality and understanding.

(3) Any party aggrieved by the refusal of a Marriage Registrar to accept a notice or to solemnize a marriage under this section may appeal to the Senior Marriage Registrar without fee.

OFFENCES AND PENALTIES

26.—Whoever for the purpose of procuring any marriage intentionally makes any false oath, declaration or affirmation or who intentionally signs any false notice or certificate required by this Enactment shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

False
declaration.

False impersonation of person whose consent is required.

27.—Whoever objects under section 12 to a marriage by a minister of religion or under section 19 to a marriage by a Marriage Registrar by falsely and knowingly representing himself to be a person whose consent to the marriage is required by this Enactment shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

Unqualified person solemnizing marriage.

28.—Whoever not being authorized under this Enactment to solemnize a marriage knowingly solemnizes a marriage or purports to do so shall be punished with imprisonment for a term which may extend to ten years or with fine or with both.

Solemnizing marriage without witnesses.

29.—Whoever knowingly and wilfully solemnizes a marriage without the presence of two credible witnesses besides the person so solemnizing shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

Solemnizing marriage without notice.

30.—Any person duly authorized to solemnize a marriage who knowingly and wilfully solemnizes a marriage when one of the parties thereto is a minor and the consent required by section 7 has not been obtained or knowingly and wilfully solemnizes a marriage except under a valid licence when the banns have not been duly published or the notice required under sections 10 or 16 has not been duly exhibited or after the expiration of three months after the date of the due publication of the banns or due exhibition of the notice, shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

Tampering with documents.

31.—Any person who—

- (a) wilfully destroys or tampers with or injures any Register Book or any entry or certificate therein or any extract or certified copy of such entry; or
- (b) wilfully and falsely makes or counterfeits any certificate or part of such Register; or
- (c) wilfully inserts any false entry in such register book, certified copy, counterfoil copy, or extract;

shall be punishable with imprisonment for a term which may extend to seven years or with fine or with both.

Failure to keep register or to issue copies.

32.—Whoever being required under this Enactment to keep a register of marriages—

- (a) fails to keep a proper register as herein prescribed; or

- (b) neglects or refuses to give a certified copy of any entry in such register to any person legally requiring the same on tender of the prescribed fee; or
- (c) does any act or thing which he is prohibited from doing or omits to do any act or thing required of him hereunder for which no penalty is hereinbefore expressly prescribed;

shall be guilty of an offence and be liable on conviction for a first offence to a fine not exceeding one hundred dollars and for every subsequent offence to a fine not exceeding two hundred dollars.

MISCELLANEOUS

33.—A marriage solemnized under this Enactment shall not be void merely on account of any irregularity in respect of any of the following matters:—

Marriage
not void on
account of
irregularity
in certain
matters.

- (a) any statement made in regard to the dwelling place of the persons married or to the consent of any person whose consent to such marriage is required by law;
- (b) the notice of the marriage;
- (c) the certificate or translation thereof;
- (d) the time and place at which the marriage was solemnized;
- (e) the registration of the marriage.

34.—A marriage solemnized prior to the coming into force of this Enactment shall not be void merely on account of any of the following matters:—

Retrospective
effect.

- (a) that it was not registered by the civil authority;
- (b) that there was any irregularity in form or procedure;
- (c) that the parties thereto or either of them were not native Christians or were not of different or of no religion.

35.—Where it appears that there has been any irregularity in form or procedure or otherwise in any marriage, whether celebrated under this Enactment or not, the Judge of Appeal as defined in the Courts Enactment 1908, as amended by the

Petition to
the Judge of
Appeal.

Courts (Amendment) Enactment, 1948, on the application of any person interested may declare that such marriage is valid if satisfied—

- (a) that the parties thereto intended to contract a marriage as defined by this Enactment or were debarred by the law of their religion or their domicile from contracting a marriage otherwise than in accordance with this Enactment; and
- (b) that there is no factor which under the provisions of section 3 would render the marriage void.

Correction
of errors
in register.

36.—(1) If any person whose duty it is to register any marriage discovers any error in the form or substance of any certificate or entry in the Register kept by him he shall forthwith proceed to correct such certificate or entry in the presence of the parties to the marriage or in their absence in the presence of two independent witnesses.

(2) The person making such correction shall sign his name in the margin opposite such correction and his signature shall be attested by the parties to the marriage or by two independent witnesses in the absence of the parties.

(3) A certified copy of such corrected certificate or entry under the hand of the person making it shall be sent to the person, if any, to whom the original certificate was sent.

Searches in
register.

37.—(1) Every Marriage Register and every certificate or copy of any entry in a Marriage Register shall be open to the inspection of the public on payment of the prescribed fees, and the person authorised to solemnize marriages and having the custody of such Registers or certificates shall, if required, give copies certified under his hand of any certificate or entry in any Register relating to any marriage.

(2) On payment of the prescribed fees a minister of religion or a Marriage Registrar shall give, when required, a certificate that the provisions of sections 10 and 18 respectively have been complied with.

Fees.

38.—(1) The fees chargeable by Marriage Registrars under this Enactment shall be as prescribed in the Eighth Schedule.

(2) The Resident may from time to time cancel, vary or add to the fees prescribed in the said Schedule or he may in any particular case vary or remit them in writing under his hand.

39.—A certified copy purporting to be signed by any person authorized to solemnize marriages of any entry in a Marriage Register or of any certificate or other document kept under his charge shall be admissable in evidence.

Certified
copies of
entries to be
admissable
in evidence.

40.—Licences or Special Licences given under this Enactment may be in accordance with the forms contained in the Sixth Schedule.

Forms.

41.—The Resident may by notification make rules from time to time for the purpose of carrying out any of the provisions of this Enactment and may add to, amend, vary or cancel any of the Schedules hereto.

Resident may
make rules.

FIRST SCHELUE**PROHIBITED DEGREES OF KINDRED.**

A man may not marry his—

grandmother
 grandfather's wife
 wife's grandmother

father's sister
 mother's sister
 father's brother's wife

mother's brother's wife
 wife's father's sister
 wife's mother's sister

mother
 step-mother
 wife's mother

daughter
 wife's daughter
 son's wife

sister
 brother's wife

son's daughter
 daughter's daughter
 son's son's wife

daughter's son's wife
 wife's son's daughter
 wife's daughter's daughter

brother's daughter
 sister's daughter
 brother's son's wife

sister's son's wife
 wife's brother's daughter
 wife's sister's daughter

A woman may not marry her—

grandfather
 grandmother's husband
 husband's grandfather

father's brother
 mother's brother
 father's sister's husband

mother's sister's husband
 husband's father's brother
 husband's mother's brother

father
 step-father
 husband's father

son
 husband's son
 daughter's husband

brother
 sister's husband

son's son
 daughter's son
 son's daughter's husband

daughter's daughter's husband
 husband's son's son
 husband's daughter's son

brother's son
 sister's son
 brother's daughter's husband

sister's daughter's husband
 husband's brother's son
 husband's sister's son

SECOND SCHEDULE

(Sections 9 and 15)

Notice of Marriage

To....., a Minister (or Registrar) of.....

I hereby give notice that a marriage is intended between me and the other person named below:—

Names	Condition (Bachelor, spinster, widow or widower)..	Rank, profession or employment.	Age	Dwelling place	Length of Residence	Nationality	Church, Chapel or place in which the marriage is to be solemnized.

I do hereby solemnly declare that to the best of my knowledge and belief there exists no lawful impediment to this intended marriage *and that I have obtained the necessary consent thereto.

(The Minister or Registrar should explain what is a lawful impediment. See notes on back).

*Delete if not applicable.

Witness my hand, this.....day of.....19.....

(Signed)

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(Reverse side of form prescribed in the Second Schedule)

Notes.

1. Before signing the declaration, the person giving the notice should be examined by the Minister or Registrar as to the possible existence of any impediment to the marriage.
2. The following constitute "lawful impediment":—
 - (a) Relationship between the parties as set out in the First Schedule to the Marriage Enactment 1948.
 - (b) Previous subsisting marriage of either party.
 - (c) Insufficient age of either party.
 - (d) Insanity of either party.
3. In addition to the causes set out in paragraph 2 a marriage may be invalid if there is a lack of real consent between the parties, e.g., if the marriage is procured by duress or if there is an erroneous belief as to the ceremony.
4. In the case of a minor, the consent of a parent or guardian or of the Court may be necessary (See section 7 of the Marriage Enactment 1948).
5. Where marriage by civil ceremony between non-Christian Asiatics is contemplated, the attention of the Registrar is drawn to section 25 of the Enactment, and in such cases he should make inquiries regarding the personal law of the parties.

(Sections 11 & 18)

I,do hereby certify that on theday of19...., notice of an intended marriage between the parties following was duly given to me byand that it was duly entered in my Marriage Notice Book.

Names	Condition	Rank, profession or employment.	Age	Dwelling place	Length of Residence	Church, Chapel or place in which the marriage is to be solemnized.

(Signed)
Minister (or Registrar)

*Delete clauses not applicable.

(Section 14)

Marriage Register Book of Church Marriages.

Marriage solemnized at.....in the State of Brunei.

[illegible]

This marriage
was solemnized be-
tween us

in the presence of
us

Names of both
witnesses

Addresses and descriptions of both witnesses.

Married at.....according to the Rites and Ceremonies of the Church of.....
.....by me.

(Signed)
 Officiating Priest or Minister.

The certified copy sent to the Marriage Registrar under section 14 (ii) shall in addition bear the following certificate:—

I.....hereby certify that the above is a true copy of the entry No.....in the Register of Marriages kept at.....

Witness my hand, this.....day of.....19..... (Signed).....

When the certified copy of this certificate is entered in the Marriage Register Book of the Marriage Registrar of the District the date on which it is received and the date on which it is entered and the amount of the fee paid shall be added and the entry signed by the Marriage Registrar, or the following certificate may be used:—

This certificate was received on theday of19.....and was entered
by me in the Marriage Register Book for theof

Fee \$.....paid.

(Date)

(Signed)
Marriage Registrar.

(Sections 23 & 24).

Page

This marriage was solemnized between us { } in the presence of { }
us { } Names of both witnesses { }
Addresses and descriptions of both witnesses.

Married in the.....by Civil Ceremony by me.

(Signed)

Marriage Registrar for the

District of

This form may also be used as a Certificate of Marriage when the following certificate should be added:-

I hereby certify that the above is a True copy of the entry No.....in the Register of Marriages kept at.....

(Signed)

Marriage Registrar for the

District of

SIXTH SCHEDULE

FIRST FORM

(Section 6)

Licence to Solemnize Marriages.

Whereas the Reverend.....
residing at a Priest/Minister of
Religion of the (here specify the
religious denomination), is desirous of being authorised to
celebrate marriages within the.....

Now therefore in pursuance of the Marriage Enactment
1948, I do hereby authorise the said.....
so long as this licence remains unrevoked to solemnize
Marriages in the

Given under my hand at.....this
.....day of.....19.....

.....
British Resident, Brunei.

SECOND FORM

(Section 21)

Special Licence

Whereas..... and.....
desire to marry and sufficient cause has been shown to me
why such marriage should be allowed without the formalities
prescribed by the Marriage Enactment.

Now therefore in pursuance of the said Enactment I do
dispense with the publication of banns (or as the case may be)
the exhibition of notice

and I do hereby authorise.....to solemnize
the marriage between the said.....and
.....at..... (place of
solemnization) upon the.....day of.....
19...., between the hours of.....and.....

Given under my hand at.....this.....
day of.....19.....

.....
Senior Marriage Registrar.
.....

SEVENTH SCHEDULE

(Section 22)

Declaration at Marriage Ceremony before Registrar.

(a) Declaration by each party that there is no impediment:

Bahwa saya dengan bersungguh-sungguh hati menyatakan ya'itu saya tidak tahu apa-apa sekatan sebab-sebab yang saya A.B. tidak boleh berkahwin dengan C.D.

بھوا ساي دغن برسڱگوڊ ۲ هاتي مپتاکن يآيت ساي تيدق
تاھوا اف ۲ سکاٽن سبب ۲ يڱ ساي A.B. تيدق بوليھ برکھوين
دغن C.D.

(A) 我照良心。虔敬發誓。我並不知有阻礙我某某之所不應與
某某結婚之原因

(b) Declaration by each party that he or she takes the other as wife or husband:

Saya panggil kapada orang-orang yang ada hadir kerana menyaksi-kan ya'itu saya A.B. mengambil engkau C.D. menjadi isteri saya (atau suami).

ساي فڱکل کفد اورڱ يڱ اد خضير کران مپتسيکن يآيت
ساي A.B. مڱميل اڱکو C.D. منجادي استري ساي (اتو
سوامي).

(B) 我請求在場諸人作證。我某某與某某依法結合為結髮夫婦

(c) Declaration by Registrar that the parties are man and wife:

Saya sebut-kan ya'itu engkau A.B. dan C.D. menjadi laki dan isteri bersama-sama.

ساي سبوتکن يآيت اڱکو A.B. دان C.D. منجادي لاكي
دان استري برسام ۲

(C) 我當衆宣佈你某某同你某某現今成為夫婦矣

35
END

EIGHTH SCHEDULE

(Section 38)

Scale of fees

- | | |
|--|---------|
| (a) For receiving and publishing a notice of an intended marriage under section 15 and 16 | \$ 2.00 |
| (b) For entering a protest under section 19 - - - | 2.00 |
| (c) For issuing the certificate referred to in section 11 or section 18 - - - - - | 1.00 |
| (d) For granting a special Licence under section 21 | 25.00 |
| (e) For solemnizing and registering a marriage under sections 22 and 23 including a certified copy of the marriage certificate - - - | 2.00 |
| (f) For registering each religious marriage under section 14 (iii) - - - - - | 2.00 |
| (g) For searching registers or records for entries of marriage including one certified copy of any one entry - - - - - | 1.00 |
| (h) For each subsequent copy - - - - - | 1.00 |

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Enactments. Marriage Enactment No 8 of 1948. 1948. MS Records of the British Colonial Office CO 943/1/8. The National Archives (Kew, United Kingdom). State Papers Online Colonial, link.gale.com/apps/doc/TIMDYH888991693/SPOC?u=omni&sid=bookmark-SPOC&pg=1. Accessed 20 Dec. 2024.